

Harshavardhana 20-1-1-1-8-1

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patent Application

Applicant(s): Harshavardhana et al.
Case: 20-1-1-1-8-1
Serial No.: 09/528,762
Filing Date: March 17, 2000
Group: 2663
Examiner: Soon D. Hyun

I hereby certify that this paper is being deposited on this date with the U.S. Postal Service as first class mail addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450

Signature: *Linda Shultz* Date: October 18, 2004

Title: Method and Apparatus for Signaling Path Restoration Information in a Mesh Network

TRANSMITTAL OF REPLY BRIEF

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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Sir:

Submitted herewith are the following documents relating to the above-identified patent application:

(1) Reply Brief (original and two copies).

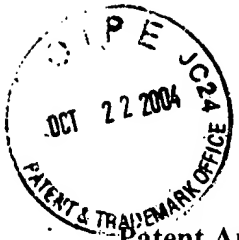
In the event of non-payment or improper payment of a required fee, the Commissioner is authorized to charge or to credit **Deposit Account No. 50-0762** as required to correct the error. A duplicate copy of this letter and two copies of the Reply Brief are enclosed.

Respectfully,

Kevin M. Mason

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Date: October 18, 2004



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Sir:

Appellants hereby reply to the Examiner's Answer, mailed August 18, 2004, in an Appeal of the final rejection of claims 1-11, 13-32, and 34-44 in the above-identified patent application.

REAL PARTY IN INTEREST

A statement identifying the real party in interest is contained in Appellants' Appeal Brief.

RELATED APPEALS AND INTERFERENCES

A statement identifying related appeals is contained in Appellants' Appeal Brief.

STATUS OF CLAIMS

A statement identifying the status of the claims is contained in Appellants' Appeal Brief.

STATUS OF AMENDMENTS

A statement identifying the status of the amendments is contained in Appellants' Appeal Brief.

SUMMARY OF INVENTION

A Summary of the Invention is contained in Appellants' Appeal Brief.

ISSUES PRESENTED FOR REVIEW

A statement identifying the issues present for review is contained in Appellants' Appeal Brief.

GROUPING OF CLAIMS

A statement identifying the grouping of the claims is contained in Appellants' Appeal Brief.

CLAIMS APPEALED

A copy of the appealed claims is contained in an Appendix of Appellants' Appeal Brief.

ARGUMENT

Independent claims 1 and 43 were rejected under 35 U.S.C. § 102(e) as being anticipated by Chaudhuri et al. and independent claims 22 and 44 were rejected under 35 U.S.C. §103(a) as being unpatentable over Chaudhuri et al., and further in view of admitted prior art.

Regarding claim 1, the Examiner asserts that Chaudhuri discloses "signaling restoration using the restoration path segments pq, rs, and tu, which are also used as restoration path segments after signaling." Col. 12, line 54, to col. 13, line 10. In the Examiner's Answer, the Examiner further asserts that "it is the claims, not the specification, that define the invention, it

should be noted that no structural or functional difference between the claimed ‘non-conforming network elements’ and nodes 12F and 12G could be found from the language of claim 1.” The Examiner asserts that limitations from the specification are not read into the claims and that, since claim 1 does not exclude the necessary functionality and databases, it is irrelevant whether nodes 12F and 12G have the necessary functionality and data bases. Finally, the Examiner asserts that the specification does not set forth the definition of “non-conforming network elements” with reasonable clarity, deliberateness, and precision; and that exemplification is not an explicit definition.

Regarding the Examiner’s assertion that it is irrelevant whether nodes 12F and 12G have the necessary functionality and databases, Appellants disagree. The functionality of the nodes in the prior art must be considered in light of the functionality of the nodes utilized and claimed by the present invention. Appellants note that Nodes 12F and 12G actively participate in the real time restoration process. For example, the cited nodes detect link failures (col. 3, lines 52-64), process the restoration code (col. 12, lines 54-62), receive the ARS-P switch request code (col. 12, lines 63-65), and pass through the NR code (col. 13, line 66, to col. 14, line 2). Thus, such functionality precludes nodes 12F and 12G from being “non-conforming” elements as defined by the present invention.

Regarding the Examiner’s assertion that the specification does not set forth the definition of “non-conforming network elements” with reasonable clarity, deliberateness, and precision, Appellants note that the specification of the present invention describes non-conforming elements as,

for example, older generation network elements of a given manufacturer, or network elements provided by a number of manufacturers. The non-conforming network elements *do not provide the necessary monitoring, signaling and cross-connect functionality and databases to participate actively in real time restoration in accordance with the present invention*. However, according to a feature of the present invention, discussed further below, the restoration techniques of the present invention work even in the presence of such non-conforming network elements. (Page 14, lines 6-13.)

Appellants believe that the above definition provides a clear, deliberate, and precise definition of non-conforming elements to a person of ordinary skill in the art.

Thus, nodes 12 F and 12G would be properly categorized as conforming elements by a person of ordinary skill in the art, in light of the present specification. Chaudhuri thus does not disclose or suggest the restoration of services in networks that contain non-conforming network

elements. Independent claims 1, 22, 43, and 44, as amended, require wherein said *signaling path transits non-conforming network elements*.

Conclusion

Thus, Chaudhuri does not disclose or suggest that “said at least one signaling path transits non-conforming network elements,” as required by independent claims 1, 22, 43, and 44, as amended.

The rejections of the independent claims under §102 and §103 in view of Chaudhuri are therefore believed to be improper and should be withdrawn. The remaining rejected dependent claims 2-11, 13-21, 23-32, and 34-42 are believed allowable for at least the reasons identified above with respect to the independent claims.

The attention of the Examiner and the Appeal Board to this matter is appreciated.

Respectfully,



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Date: October 18, 2004